

*Applicant: Phillips et al.
Application Serial No. 09/735,363
Amendment and Response to Final Office Action
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REMARKS

The above-identified patent application is directed to a composition comprising a 3'-OH, 5'-OH synthetic phosphodiester nucleotide sequence, a chemotherapeutic agent and a carrier. Prior to this amendment, Claims 1, 10, 59, 61-62, 65-67 and 69-119 were pending. By this amendment, Applicants cancel Claims 84-119. The amendments do not introduce any new matter. Upon entry of the amendment Claims 1, 10, 59, 61-62, 65-67 and 69-83 will be pending.

Telephone Interview

Applicants and Applicant's counsel thank the Examiner for the telephone interviews held May 10, 2006 and June 7, 2006.

Claim objection

In the Final Office Action mailed March 7, 2006, the Examiner objected to Claim 1. Based on the Telephone interview held June 7, 2006 with Examiner Zara, Applicants wish to confirm that "comprising" is interpreted as referring to the compositions, and the sequences are interpreted as consisting of the particular sequences recited. Accordingly, Applicants respectfully assert the instant invention is described adequately. Applicants respectfully request reconsideration of the claim objection based on the foregoing.

Claim Rejections under 35 U.S.C. §112

In the Final Office Action mailed March 7, 2006 the Examiner rejected Claims 1, 10, 59, 61, 62, 65-67, 69-83 under 35 U.S.C. §112, first paragraph, because the specification, while being enabling for a subset of the sequences claimed, provides inhibition of cellular growth or other cellular effects *in vitro*, it does not reasonably provide enablement for methods of treatment (*emphasis added*) *in vivo*, alone or in combination with a chemotherapeutic agent. Applicants respectfully traverse.

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Applicants respectfully submit Claims 1, 10, 59, 61, 62, 65-67, 69-83 are directed to compositions of matter. Applicants have cancelled herein claims directed to methods of treatment (Claims 84-119). Applicants respectfully submit cancellation of the method claims overcomes the enablement rejection under 35 U.S.C. §112, first paragraph and request it's withdrawal.

Applicants note in the previous Office Action of August 3, 2005 (Page 4) Claims 5 and 10 contained allowable subject matter. The Examiner stated Claims 5 and 10 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants incorporated the subject matter of Claim 5 into Claim 1 in the previous response filed December 23, 2005. Accordingly, Applicants assert the pending claims are free from the prior art of record and respectfully request allowance of the pending claims.

CONCLUSION

The foregoing is submitted as a full and complete response to the Office Action mailed March 7, 2006.

Applicants assert that the claims are in condition for allowance and respectfully request that the application be passed to issuance. If the Examiner believes that any informalities remain in the case that may be corrected by Examiner's amendment, or that there are any other issues which can be resolved by a telephone interview, a telephone call to the undersigned agent at (404) 815-6473 or to Dr. John McDonald at (404) 745-2470 is respectfully solicited.

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No additional fees are believed due, however, the Commissioner is hereby authorized to charge any deficiencies which may be required or credit any overpayment to Deposit Account Number 11-0855.

Respectfully submitted,



By: Zara A. Doddridge, Ph.D.
Patent Agent
Limited Reg. No.: L0030

KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530
Phone: (404) 815-6500
Facsimile: (404) 815-6555
Atty. Docket: 02811-0181 (42368-250224)